The Specificity of the Investigation of Crimes Related to the Use of Offshore Zones for Legalization of Criminal Proceeds

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ABSTRACT
Article is about the specificity of the investigation of crimes related to the use of offshore zones for legalization of criminal proceeds.

KEYWORDS: *official, criminal, implementation, store, export, financial.*

As noted earlier, in order to hide money and property, legalizers resort to various methods, in the process of which criminally obtained income is given an external resemblance to income obtained legally in various official areas of activity. At the same time, the achievement of several goals is pursued, allowing openly, that is, without attracting the attention of law enforcement agencies, to dispose and use criminally obtained proceeds in their own interests, to ensure their safety. One of the most commonly used methods of the legalization process by criminals is the export (withdrawal) of criminal proceeds from the country abroad and the implementation of their reliable safety out of sight of domestic regulatory and law enforcement agencies. At the same time, legalizers seek to place “shadow capital” in conditions that allow not only to reliably hide and store criminal proceeds, but also to have free access to them in order to complete the legalization process, that is, return them already in the form of legally acquired funds. and property.

To legalize criminal proceeds using the export of “shadow capital” abroad, legalizers choose those states that have the most favorable financial, economic, and legal conditions that ensure a high level of safety, secrecy of legalized criminal proceeds, among which preference is given to countries that have so-called offshore zones.

Before considering the forensic characterization of money laundering using offshore zones, it is necessary to study the legal nature, prerequisites and conditions for the occurrence of this phenomenon, define an offshore zone that would fully reflect all its main features, identify criteria for classifying the territory of a foreign state or parts of it.

The emergence of offshore zones in the field of international financial services and their use for the purpose of legalizing proceeds from crime is due to objective reasons for the historical development of international business. In order to increase their capital and avoid paying taxes in their country, many foreign entrepreneurs tried to conduct their commercial activities through territories where there were no or minimal taxes on the import and export of goods, and there were also agreements with neighboring states on duty-free trade. The first offshore schemes began to be used in the last century in certain sectors of the world economy, but it took a significant period of time for all these schemes to turn into a modern concept of using offshore zones for legalizing criminal proceeds.

The advantage of using banks located in offshore zones, compared to banks operating in their own state, is that offshore banks do not provide other states with information about the owners of

settlement accounts, about financial transactions with these accounts. Another advantage is the absence or nominal level of taxes on income, which in most offshore zones are replaced by an annual fee. Offshore banks most often do not pay attention to the sources of origin of deposits or approach this issue formally, taking into account any documents, including fictitious ones, that is, these banks are satisfied with a minimum of information about the client.

At the same time, offshore zones create favorable conditions for doing business for non-residents (legal entities, individuals operating in one state, but residing and registered in another) by providing them with a number of significant benefits, privileges and guarantees, which do not apply to their own citizens. These benefits, privileges and guarantees include low or zero tax rates, currency autonomy, simplified and flexible regimes for creating companies and licensing their activities, the optional physical presence of representatives of financial institutions and corporate structures in their countries of registration, an increased level of confidentiality for clients and their deposits. and business operations.

Currently, there is no single concept of “offshore zone” as an unambiguous understanding of the term itself, since the terms “offshore”, “offshore jurisdiction” , “non-economic jurisdiction”, “offshore financial center”, “tax haven”, “tax haven”, “tax haven”, “tax haven”, etc. Thus, according to the experts of the Organization for Economic Cooperation and Development (OECD), “tax havens” include countries and territories where there is extremely favorable taxation, and real opportunities for tax evasion have been created for non-residents in their countries of residence. A number of experts believe that an “offshore financial center” is a center that allows financial activities that differ geographically or legally in terms of their conditions from financial activities in the rest of the offshore jurisdiction. In some states, the principle of the place of receipt of income is applied, i.e. the income of residents and non-residents is not taxed if they are produced outside the customs territory of the offshore zone.

The use of offshore zones in commercial activities as a result of increased confidentiality of the owners of funds and bank funds and banking operations, supported by legislative, executive and judicial bodies, along with preferential taxation, attract the attention of criminals for the legalization of proceeds from crime, including organizing their illegal activities on the territory of our country. It should be noted here that many states deliberately create offshore zones on their territories in order to replenish their budgets through the inflow of foreign capital, regardless of their sources of origin, including criminal ones.

Thus, an **offshore zone** should be understood as_a foreign state or part of its territory that provides non-residents conducting their financial and economic activities in other countries with a lower tax rate or tax exemption and (or) ensuring a high level of confidentiality of information about the fact and content of financial and other transactions, accounts, deposits of foreign companies registered in their territory, as well as the owners of such companies.

the forensic characteristics of this type of crime, the features of its most significant and informative elements, that is, the events, methods, mechanism, form and degree of its complicity in the activities of a criminal organization, is important for the success of identifying, investigating and disclosing crimes on the legalization of criminal proceeds using offshore zones. groups.

As a rule, the subject of legalization using the possibilities of offshore zones is money in a freely convertible currency, both in the form of cash and in accounts, most often, of fictitious firms, etc., one-day firms, as well as dummy persons on whose behalf various financial and property transactions are carried out.

Considering the specifics of legalization using offshore zones, there are certain difficulties in determining the event of a crime, which, as a process of committing a crime, must have a beginning, course and end, a sequence of actions in time and place, an accompanying environment, etc. that is,

the signs of the objective side can manifest themselves in various ways and are not always committed by criminal means, within a specific time frame. The places used in legalization can be the premises of banks and other financial institutions, stock exchanges, commercial and non-profit organizations located both on the territory of our country and in a foreign state or part of its territory that have signs of an offshore zone.

The key element of the forensic characterization of money laundering is the method of committing a crime using offshore zones, which ultimately determines the features of the crime itself, identifying its traces, and tactical features of conducting investigative actions.

An important structural component of the forensic characteristics is also **the mechanism for the formation and localization of evidence** (traces of criminal activity), which has the most significant search and cognitive capabilities in identifying signs of legalization, the effectiveness of putting forward forensic versions and planning an investigation. In the process of preparing, committing and completing the crime, legalizers, despite the measures taken to ensure the secrecy of their illegal actions, disguising them as various forms of legal activity, inevitably leave numerous traces of tangible and intangible (ideal) content, the detection and procedural consolidation of which is the primary task of the investigation. . Material traces of legalization remain in various financial, banking, accounting, cash customs, tax, commodity and other documents, in internal (unofficial) and draft records, both on paper and in the form of electronic information contained in computer memory.

To detect traces of a material nature, modern methods of forensic technology are widely used.

Another important source of significant forensic information needed to identify traces of legalization is information about the crime imprinted in the memory of the legalizers themselves, accomplices and eyewitnesses. The most valuable and specific information is owned by employees of organizations of institutions through whose capabilities legalization was carried out, since their testimony contains data explaining the origin and purpose of the information found in documents and other information carriers.

Mainly, the detection of traces of legalization using offshore zones should be focused on identifying the connection between the crime and offshore zones, the mechanism of commission, and the persons involved in legalization.

Most often, legalization involves persons formed into a group, the composition of which differs depending on the magnitude of the criminal intent, the complexity of the method of legalization, and the frequency (recurrence). Regarding **the identity of the offender**, it should be noted that the offender can be directly the owner of the criminal proceeds generated as a result of the predicate crime, as well as accomplices of legalization, most often not involved in criminal proceeds, organizing the legalization process itself. In this regard, the subjects of legalization using offshore zones can be characterized as persons over 25 years old, with higher education (secondary special education) who have not previously been prosecuted, have highly paid jobs, hold responsible positions in financial, commercial and non-commercial organizations, have a fairly wide range of business ties, incl. abroad or among foreigners working in our country.

Among the legalizers, the following categories of persons can be conditionally distinguished:

- owners, co-owners, managers who have influence on subordinates and other persons associated with the formation of criminal income, and involved in its legalization;
- employees with sufficient experience in economic and financial activities, able to provide consulting services or perform operations related to the legalization of criminal proceeds;
- attendants (secretaries, couriers, drivers, etc.), which are often used as front men in the execution

of fictitious transactions, heads of false companies, transportation and storage of documents, money and property.

The groups that commit the crimes in question are characterized by a high degree of organization, a clear distribution of responsibilities, good command of the methods and skills of conspiracy, and ensuring their own security measures. The formation and activity of these groups, as a rule, is carried out on the basis of an ethnic community, parochial tendencies, and kinship relations. Outwardly, the members of these groups do not have any remarkable signs of unmasking, in public life and behavior they are not much different from ordinary citizens, they try not to attract attention from local governments and law enforcement.

Carrying out verification activities to identify signs of legalization of criminal proceeds using the possibilities of offshore zones, as well as initiating a criminal case, has some features closely related to predicate offenses and the method of legalization.

In the case of predicate criminal activity, the basis for investigating a new corpus delicti in the form of legalization is the identification during the investigation of a predicate crime of facts indicating the intentions and actions of a person (group) to hide the real source of the origin of funds or property. In this case, an investigation into the legalization of proceeds from crime begins, together with an investigation into the crime from which the funds were obtained.

If the predicate crime is in the zone of latency, then the grounds for initiating a criminal case on legalization of criminal proceeds can be obtained as a result of studying the information contained in the grounds for initiating a criminal case, enshrined in the criminal procedural legislation:

- statements of citizens who report the fact that they are suspected of committing or preparing to commit a crime on money laundering, committing a crime on money laundering, carried out using the possibilities of offshore zones;
- information from state bodies (control, tax, customs, financial, etc.), legal entities, supervisory organizations that have become aware of the signs of money laundering using offshore zones;
- information in the form of the results of operational-search activities carried out by competent authorities, containing signs of legalization of criminal proceeds;
- other sources of information about the signs of money laundering (mass media, partnerships with foreign and international organizations, diplomatic, foreign economic relations, etc.) that are not prohibited by law.

To conduct pre-investigative verification activities, an objective basis may be

- information about the speed of accumulation of funds, large amounts of deposits and transfers to foreign banks located in offshore zones, their implementation in a short time or systematically in small amounts;
- inconsistency of the size of transactions with foreign commercial and financial partners with real funds and incomes of individuals and legal entities engaged in entrepreneurial activities.

As a feature of the forensic characteristics of legalization using offshore zones, and, accordingly, the specifics of identifying and investigating this category of legalization crimes, there is a need to search for signs of legalization on the territory of foreign states or part of their territory where companies, financial institutions and banks organizing their activities are located. based on the provision of significant preferential taxation conditions for non-residents, in this case, individuals and legal entities that are residents of Uzbekistan, that is, for individuals, the presence of our citizenship, and for legal entities, registration in the territory of the republic.

Along with these advantages, offshore zones have a confidentiality regime for deposits, availability

of bank accounts and ongoing financial transactions. It is the conditions of confidentiality of deposits and transactions with them, being the most favorable circumstance for legalizers, that become a serious obstacle to revealing the facts of legalization of criminal proceeds and the success of the results of the investigation of this category of criminal cases.

At the same time, the world community, through specially created international organizations, primarily the FATF, Interpol and other interstate, bilateral treaties and agreements, commissions, etc. take measures to reduce the number of offshore zones on the territory of various states, up to the adoption of economic and political sanctions against the latter.

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